

**BOARD OF COUNTY COMMISSIONERS
WASHOE COUNTY, NEVADA**

TUESDAY

10:00 A.M.

JULY 12, 2016

PRESENT:

Kitty Jung, Chair
Bob Lucey, Vice Chair
Marsha Berkgigler, Commissioner
Vaughn Hartung, Commissioner
Jeanne Herman, Commissioner

Jan Galassini, Chief Deputy County Clerk
John Slaughter, County Manager
Paul Lipparelli, Legal Counsel

The Washoe County Board of Commissioners convened at 10:00 a.m. in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

16-0597 AGENDA ITEM 3 Public Comment.

Robert P. Parker spoke regarding a proposal to build 635 homes in Steamboat Hills, which was located south of Reno. He was concerned about the damage that could occur during construction and the additional vehicles that would travel the road once the community was built. He was worried about the location of the proposed homes because Steamboat Hills was part of the Galena Mining District. He stated there was an abandoned lead mine near the proposed development and lead had already been discovered at Pleasant Valley Elementary School. He provided a handout, which was placed on file with the clerk.

Sam Dehne spoke about the media, the Homerun Derby, Burning Man, the Air Guard and Tesla. He thought the County should be loyal to the long time businesses in the community and should consider a tax break for the ones that continued to operate in the area.

John Trent introduced himself as the Race Director for the Silver State Endurance Runs. He stated the event was held every May on Peavine Mountain for the past 31 years. He said the endurance run brought approximately 250 competitors to Peavine Mountain each year. He noted the first 25 years of the event there were very few interactions with gun users on Peavine Mountain, but there had been more such interactions with gun users in the past few years. He said the interactions took place in the days leading up to and including the day of the event. He stated in 2015 there were two runners who had to crawl out of an area where shots were being fired. He did not

think the shooting near the runners was deliberate, but he thought the shooters might have been inexperienced and were not aware of the event that was happening. He said in an effort to make people aware, there were signs posted around the mountain about the event. He said he was in support of the proposed changes and hoped the change to the ordinance would make recreation safer on Peavine Mountain.

Tim Stoffel spoke regarding choosing subject matter experts. He talked about a volunteer who worked with large cats and said she knew health issues were present in an animal before a veterinarian knew. He stated the point he was trying to make was there were people in the community who were experts with animals. He thought it was time for Regional Animal Services and the community's animal experts to work together with a moderator to work out Code changes. He said `Washoe County owed nothing less to the dedicated, passionate citizens who frequently put the needs of animals before their own needs.

Hetty H. Baltensberger spoke regarding the condition of the road from Mountain Ranch Road to Mount Rose Highway. She said the road was very dangerous, was not paved and had large gullies. She stated at one point in the road there was a high curb and she felt it was a hazard at night because it was difficult to see it in the dark. She asked for assistance to determine whether the road could be improved in the future.

Norman R. DeLorme a Paiute Washoe Indian, spoke regarding his concerns about the Peavine Mountain congested area ordinance. He thought it was important for the mountain to be patrolled by law enforcement. He said he was up there quite often looking for native plants and medicines. He indicated at times the mountain was congested, which made it difficult to maneuver the rugged terrain. He stated he was in support of the ordinance change because he would like to continue to teach his children and grandchildren about their culture.

Mac Rossi addressed the possible changes on Peavine Mountain. He thanked the Board and staff for all the work they had done regarding this issue.

Kent Ervin spoke regarding the congested area ordinance. He stated there had been too many near misses and it was time to take action. He thanked the Board and staff for finalizing the changes. He thought this was one part of the equation for making the trails on Peavine Mountain safer for all road and trail users.

Cathy Brandhorst spoke about matters of concern to herself.

Pee Wee Henson spoke regarding safety concerns on Peavine Mountain. He stated there needed to be boundaries that were enforceable to avoid confusion. He thought the calls for emergency services on the mountain showed there were more automobile and motorcycle accidents, and injured hikers than shooting incidents. He said the mountain was large enough for all recreation and people needed to learn to share its glory.

Boone Cutler spoke regarding being shot at on Peavine Mountain and he thought there was a lot of fear about guns and hearing gunfire. He said some of the testimonies had been a little vague. He did not agree with the testimonies which stated a person felt a bullet fly by their head.

Elise Weatherly spoke about the need to bring the Bible and prayer back to the Country. She hoped someone could find a way to bring them back to give people hope again.

Ronald Williams said he did not understand why people could not get along and share Peavine Mountain. He thought everyone on the mountain had a responsibility to conduct themselves in a safe manner. He said many areas where citizens shot their guns were littered with trash and it was not from the people shooting, it just happened to be there. He stated he hunted on the mountain and usually had encounters with other people because they did not want him to be shooting, even in the designated areas. His experience had been that the irresponsible people wanted to tell him what he could and could not do on the mountain. He encouraged the Board to consider everything that was involved with sharing Peavine Mountain.

Robert Borges stated he was an applicant for the Washoe County Library Board of Trustees Seat and he wanted to introduce himself. He mentioned his life was filled with books due to his frequent visits to the Downtown Reno Library where his grandmother worked as head cataloger. He stated he grew up around libraries where he discovered his passion for books. He said his family instilled a deep fondness for books that he carried into his adulthood. He noted his passion started with reading and then he became an accomplished poet and book artist culminating in the production of chapbooks and artists books. He stated the public library inspired him and he wished to further the central mission of the public library by being selected for the seat.

Kevin Joell introduced himself as the Vice President of the Biggest Little Trail Stewardship, formerly the Poedunks, which had been doing the planning, building and maintenance of the single track trails on Peavine Mountain since 2007. He stated they worked with the Nevada Department of Forestry, Washoe County and City of Reno to make the trails available for the recreational users in the community. He said they also provided the trail signage on the mountain. He stated he was opposed to the change to the congested area ordinance on the mountain. He said the public land was there for everyone to use in a responsible manner. He thought there were issues with people conducting themselves in an illegal manner on the mountain, such as illegal dumping, illegal shooting, off-road vehicles in restricted areas and off-road travel. He wanted to see the County focus on how to solve the illegal activity and on enforcement. He thought there should be dedicated law enforcement on the mountain to enforce and be available in case of an emergency would be helpful.

16-0598 **AGENDA ITEM 4** Announcements/Reports.

County Manager John Slaughter stated the Board would take scheduled breaks approximately every 90 minutes. He stated Thomas Drinkwater, a first class Boy Scout with Troop 15, was attending the meeting and was working toward a Citizenship in the Community Merit Badge. He said displayed in the lobby were Recovery Doors art with the theme of Sober Is. He said the project was intended to create awareness associated with the disease of addiction. He said the Burning Man art, Mechateuthis, would also be on display in the lobby.

Commissioner Lucey explained to Mrs. Baltensberger, who spoke during public comment, that he was her Commissioner. He stated he was aware of the area and the issue coming in to the Monte Vista Estates. He said at this time there were no plans for the road to be paved. He noted the 4th of July was a wonderful holiday with the nationally known Barracuda Championship Golf Tournament at Montreux Golf Course. He said the event was well attended and it raised a significant amount of money, which would be donated back into the community. He stated he participated in the Red, White and Tahoe Blue event and he had many compliments about the Sheriff's Office and their control of the event.

Commissioner Hartung recognized Mr. Cutler who spoke during public comment and thanked him for the work he did with veterans. He said that Mr. Cutler had a Radio show called the Tipping Point and he was a true force in the community. He mentioned the property at Pyramid and La Posada and asked staff to contact the new property owners to maintain the property. He said the property was formerly a park owned by the County and since the sale took place, the property had not been maintained. He asked for a discussion regarding the speed of traffic on Pyramid Highway at the far end of Spanish Springs. He said he received many complaints from residents regarding the difficulty of turning on to Pyramid Highway from side streets. He asked staff for an update on the Alzheimer's and Rock Steady Boxing programs and wanted a timeline brought that back to the Board.

Commissioner Berkbigler said she had the pleasure of representing the County at the grand opening of the new Campo Restaurant on Pyramid Highway in Sparks. She said it was a great restaurant and a beautiful grand opening with a ribbon cutting. She said previously there was a discussion about including a prayer at the beginning of the Board meetings and she asked staff to bring that back as an agenda item for discussion. She mentioned the discussion regarding the words In God We Trust being put in the Chambers and since the room was going to be revamped, and she thought that should be discussed that at the same time as the prayer discussion. She asked staff for an agenda item regarding the tennis court on Moana Lane near the Washoe Golf Course. She wanted to know whether there were problems with the deed or any other legal issues on the property.

Commissioner Herman talked about medical marijuana establishments and she thought the County needed to have more power over where the money was disbursed.

Chair Jung thanked Boy Scout Thomas Drinkwater and his father for attending the meeting. She stated it took great parents who were involved and willing to fight to get kids to meetings and to take care of business. She hoped this experience would inspire him to run for office in the future. She said she went to the Crossroads award ceremony where County Manager John Slaughter, Assistant County Manager Kevin Schiller, Director of Social Services Amber Howell, Deputy Clint Player and Deputy Shawn Marston were honored. She said the County received an Award of Appreciation for Outstanding Leadership for funding the program. She attended the news conference for the Truckee Meadows Fire Protection District (TMFPD) where the media was taught Wildfire 101. She said Media and Communications Specialists Chris Ciarlo and Scott Oxarart received good press and established a great relationship with the media. She indicated in the case of a major fire emergency, Twitter was the best place to get messages and updates from the County. She said she participated in a canvass for Save Our Schools, which was a sales tax ballot question. She said the canvass was in the McQueen High School area because that school would be the first high school to go to double sessions if the ballot measure failed. She said it was a great experience to go to property owners' front doors to explain the ballot question. She said the 35th anniversary of the Great Balloon Race was this week and she wanted all of the Commissioners to attend if possible. She stated she would be representing the Board at the Northern Nevada Muslim Community Eve Day, which would be a celebratory picnic at Lazy 5 Regional Park and it would be open to the public.

Commissioner Lucey wanted a status report on the Galena Garden Club private partnership.

Commissioner Hartung wanted to know whether it was possible to be partners with the Star Spangled Sparks event. He said it was a huge and very successful event and it would be good for the County to participate. He wanted to know if the agenda item about the potential refugees that were coming would still be heard at the end of the month. He was curious about the difference between actual refugees and people who were seeking asylum and their potential to work in the community.

CONSENT ITEMS 5A through 5F2

16-0599 **5A** Recommendation to approve a 2014 Department of Homeland Security (DHS) State Homeland Security Program (SHSP) grant passed through the State of Nevada, Division of Emergency Management for [\$48,290.00 no match required] for upgrades and sustainment to the existing Northern Nevada Radio Cache; retroactive from June 23, 2016 through August 15, 2016; and direct the Comptroller's Office to make the appropriate budget amendments. Manager. (All Commission Districts.)

16-0600 **5B** Approve the Tax Collector to strike names and amounts identified on delinquency/uncollectible Personal Property Tax list for fiscal years 2011/12 to 2012/13, [totaling \$47,645.55]. Comptroller. (All Commission Districts.)

- 16-0601** **5C** Acknowledge a grant award of [\$25,000], awarded to the Second Judicial District Court from the Lee F. Del Grande Foundation [No County Match Required], effective June 1, 2016 – May 31, 2017 for “Expanded Visitation and Security Enhancements at the Family Peace Center,” and direct the Comptroller’s Office to make the appropriate budget adjustments. District Court. (All Commission Districts.)
- 16-0602** **5D1** Approve an Interlocal Public Work Agreement (NM574-15-816) between Washoe County and the Nevada Department of Transportation for the purpose of constructing certain pedestrian improvements along SR 443, Sun Valley Boulevard, at the intersections of Skaggs Circle, Gepford Parkway, and 6th Avenue [no cost]. (Commission District 3.)
- 16-0603** **5D2** Approve a Roadway Dedication to convey real property, a portion of APN 142-011-07 (totaling .64 acres) for use as a public street right-of-way to the City of Reno; and if approved, direct the Clerk’s Office to record the Roadway Dedication. (Commission District 2.)
- 16-0604** **5D3** Approve rejection of all bids for the CSD Operations Stressed Membrane Structure. (Commission District 2.)
- 16-0605** **5D4** Approve a Reimbursement Agreement between Washoe County and Ryder Homes of Northern Nevada for reimbursement to Ryder Homes [\$53,820.00] for construction of an effluent pipeline extension; and direct the Comptroller’s Office to make the appropriate budget adjustments. (Commission District 2.)
- 16-0606** **5D5** Approve a donation of five acres of real property from Spanish Springs Associates (HAWCO Development Company) to Washoe County, including a portion of APN 532-091-09 for use as a public park; and if approved, authorize the Director of Community Services to execute all associated documents upon completion by Spanish Springs Associates. (Commission District 4.)
- 16-0607** **5E1** Approve funding [\$13,000.00, no match required] from the USDA Forest Service Humboldt-Toiyabe National Forest for reimbursement of overtime costs incurred while involved in the Cooperative Law Enforcement Agreement #16-LE-11041701-008 for the retroactive period of 01/01/2016 – 09/30/2016; and if approved, authorize Comptroller’s Office to make the necessary budget amendments. (All Commission Districts.)
- 16-0608** **5E2** Approve the reclassification of a vacant Sergeant position to a Lieutenant position [at no cost]; and authorize Human Resources to make the appropriate adjustments. (All Commission Districts.)

16-0609 **5F1** Approve a Subgrant Award from the State of Nevada Department of Health and Human Services Division of Public & Behavioral Health retroactive to April 1, 2016 through June 30, 2016 for [\$40,162.00] with no County match required, to support substance use counseling. Authorize the Department to execute the Subgrant Award and direct the Comptroller's Office to make the necessary budget amendment. (All Commission Districts.)

16-0610 **5F2** Approve the Director of Social Services to accept [\$58,000.00] for the Federal Title IVB Subpart 2 grant [\$19,700 match required] from the State of Nevada, Division of Child and Family Services to support adoption promotion and support services retro from July 1st, 2016 – June 30th, 2017; and direct the Comptroller's Office to make the appropriate budget amendments. (All Commission Districts.)

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Hartung, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Consent Agenda Items 5A through 5F2 be approved. Any and all Resolutions or Interlocal Agreements pertinent to Consent Agenda Items 5A through 5F2 are attached hereto and made a part of the minutes thereof.

BLOCK VOTE (8, 9, 10, 11, 12, 14 and 15).

16-0611 **AGENDA ITEM 8** Recommendation to approve a Change Order [\$30,188.85] to the Agreement for Professional Consulting Services between Washoe County and NewFields Companies, LLC, that provided inspection and material testing services during construction of the Huffaker Hills Effluent Storage Reservoir – Phase 2 Liner Expansion Project [total project cost \$213,387.85]. Community Services. (Commission District 2.).

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 8 be approved.

16-0612 **AGENDA ITEM 9** Recommendation that the Board of County Commissioners acknowledge payment to Xerox in amount [not to exceed \$210,699.49 and \$217,020.47] for fiscal years 2016-17 and 2017-18 respectively for annual maintenance and support agreement for the Second Judicial District Court's case management system and direct the Comptroller to make the necessary budget adjustments. District Court. (All Commission Districts.)

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 9 be acknowledged and directed.

16-0613 **AGENDA ITEM 10** Recommendation to approve sole source funding purchase and installation of updated file servers, touchscreen computers and software for Detention Facility project at the Washoe County Sheriff's Office in the amount of [\$251,300.00] from Prism Systems. Sheriff. (All Commission Districts.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 10 be approved.

16-0614 **AGENDA ITEM 11** Recommendation to accept grant awards from the Nevada Aging and Disability Services Division for the following Older Americans Act Title III Programs: Adult Day Care [\$62,924 match of \$11,106 from ad valorem tax], Representative Payee [\$31,218 match of \$5,510 from ad valorem tax] and Homemaker Services [\$72,000 match of \$12,707 from ad valorem tax]; and the following State of Nevada Independent Living Programs: Case Management [\$156,249 match of \$23,437 from ad valorem tax], retroactive from July 1, 2016 through June 30, 2017; and direct the Comptroller to make the appropriate budget adjustments. Senior Services. (All Commission Districts.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 11 be accepted and directed.

16-0615 **AGENDA ITEM 12** Recommendation to approve sole source purchase of public safety radios with a trade-in discount offered by Harris Public Safety Professional Communications in joinder with the National Association of State Purchasing Officers (NASPO) Master Price Agreements for State of Nevada that will exceed [\$100,000] but will remain within available adopted Washoe County FY16/17 Capital Improvement Plan not to exceed [\$400,000]. It is further recommended that the Purchasing and Contracts Manager be authorized to purchase additional public safety communication radios in Fiscal Year 2016/2017 under the same master price agreements from Harris Public Safety Professional Communications or their distributor, Dailey and Wells, that may aggregate to exceed [\$100,000] in FY17 but will not exceed available budgets. Technology Services. (All Commission Districts.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 12 be approved and authorized.

16-0616 **AGENDA ITEM 14** Discussion and possible direction to the County Manager to utilize two or more hours of staff time to review and update Washoe County business license and permitting for breweries with respect to state regulations and possible process efficiencies. (Requested by Commissioner Lucey and supports Strategic Objective of Proactive Economic Development and Diversification.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 14 be approved.

16-0617 **AGENDA ITEM 15** Discussion and possible direction to the County Manager to utilize two or more hours of staff time to research and review annexation policies and practices in the region. (Requested by Commissioner Jung and supports Strategic Objective of Regional and Community Leadership.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 15 be approved.

16-0618 **AGENDA ITEM 6** Presentation: Nevada Shared Radio System update Tom Moore, Nevada Department of Transportation (10 Minutes.)

Tom Moore, Assistant Chief Traffic Engineer of the Nevada Department of Transportation (NDOT), provided a PowerPoint presentation regarding the Nevada Shared Radio System (NSRS). He reviewed the presentation, which included slides entitled History, System Map, Project Phases, Phase 2 Timeframe and Questions. He stated they were on track with the project phases.

Commissioner Hartung said the slide regarding Phase 3 indicated completion could take up to 7 years and he wondered if the system would be obsolete by then.

Mr. Moore stated the system would not be obsolete. He said included in the request for proposal (RFP) was a requirement that the manufacturer maintain the system for 7 years after they declared the end of life on that particular system. He indicated he was confident they would get up to 25 years with the NSRS.

There was no public comment or action taken on this item.

16-0619 **AGENDA ITEM 7** Recommendation to appoint one of five applicants – Robert Borges (District 2), Amy Ghilieri (District 1), Ted Parkhill (District 1), Charles Guffey (District 1), or Jean Stoess (District 1) – to fill

one vacating seat on the Washoe County Library Board of Trustees, with a term effective July 1, 2016 through June 30, 2020. Library. (Districts 1 and 2.)

Commissioner Herman stated she had a nice conversation with Charles Guffey. She stated he and his family spent every weekend at the library and she thought he would be a very good choice for the Library Board of Trustees vacant seat.

John Slaughter wanted clarification regarding the term of this appointment and Library Director Jeff Scott confirmed the appointment was for a 4-year term.

Chair Jung stated she supported the appointment of Jean Stoess for the vacant seat. She indicated she had appointed Dr. Al Stoess, Mrs. Stoess' husband, to the Library Board when she had no applicants in her District for the position. She noted Dr. Stoess would be exiting the Library Board position, as his term was complete.

Commissioner Lucey stated the Library Board was very important because it was a pivotal part of the community and operated as an education center for youth and a community center for the residents. He said the continued operation was vital to the quality of life in the County. He agreed that Mrs. Stoess was the best candidate for the Board, but he said all of the applicants were very qualified.

Commissioner Hartung stated all the applicants were impressive. He said he had known Mrs. Stoess for a number of years and he thought Dr. Stoess had performed extremely well on the Board. He stated Mrs. Stoess would bring a lot to the Board with her historic knowledge. He supported the decision to appoint Mrs. Stoess.

Commissioner Berkbigler stated all the applicants were very impressive and she hoped they would continue to be active in the community. She agreed with the comments made about Ms. Stoess and she said she had been so effective in so many different ways in the County. She knew Mrs. Stoess would do a wonderful job.

On motion by Commissioner Berkbigler, seconded by Commissioner Lucey, which motion duly carried, it was ordered that Jean Stoess be appointed.

16-0620 **AGENDA ITEM 13** Recommendation to approve the relocation of a medical marijuana dispensary within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015. The request is from the Clinic Nevada, LLC to move a medical marijuana dispensary from the location issued a State of Nevada provisional medical marijuana certificate at 17025 Mt. Rose Highway to two parcels directly north of and adjacent to 300 Lemmon Drive, located at the intersection of Lemmon Drive and Buck Drive (APNs 552-190-08 and 552-190-09). If approved, direct staff to notify the State of Nevada Division of Public and Behavioral Health in writing of the Board's approval of the relocation request. Manager. (Commission District 5.).

Assistant County Manager Kevin Schiller stated the intent of this agenda item was to relocate a medical marijuana establishment (MME) from 17025 Mount Rose Highway, Reno, to 300 Lemmon Drive, Reno. He indicated the required neighborhood meeting regarding the proposed relocation had been held. He said at the meeting there were 10 residents in attendance and 10 representatives from Clinic Nevada. Clinic Nevada representatives provided a PowerPoint presentation and addressed questions associated with possible issues regarding the new location. He noted overall the meeting was a positive experience and citizens were satisfied with the solutions to correct the issues. He mentioned that Joey Gilbert and Clint Cates who represented Prestige Worldwide, were available to answer questions.

Acting Chair Lucey asked how many active dispensaries there were and whether there were any existing traffic issues. Mr. Schiller answered there were two dispensaries in the unincorporated County and there had been no complaints of traffic issues. Acting Chair Lucey said Clinic Nevada had done a good job with maintaining public awareness and notice. He said he was glad that they were getting a location that would work for them and the community.

Clint Cates from Prestige Worldwide stated the license with transfer of interest was purchased on March 14, 2016. He explained that Clinic Nevada was made up of three companies, Kind Cannabis Company, Strains Nevada and Prestige Worldwide.

Commissioner Hartung stated he often detoured through Sun Valley to his home due to the construction at the corner of Pyramid and McCarran. He said it was difficult to locate the MMEs in Sun Valley. He said the McDonalds and 7-11 drew in more traffic than the dispensary.

Chair Jung said the dispensary Commissioner Hartung spoke about in Sun Valley was in her District and she noted the whole block had improved and transformed. She said it was safer, there was 24-hour surveillance and she thought the previous fears related to safety had been unfounded.

Commissioner Herman mentioned this would be the third dispensary in her District if the proposed move was passed.

Joey Gilbert from Prestige Worldwide stated there had been no negative secondary effects reported anywhere in the State of Nevada for dispensary, production or cultivation facilities. He noted that data was available to confirm the medical marijuana establishments were not creating any issues.

Commissioner Berkbigler thanked Mr. Cates and Mr. Gilbert for relocating to an area where it would serve the community best.

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 13 be approved and directed.

PUBLIC HEARINGS

16-0621 **AGENDA ITEM 17** Public Hearing and possible action on Case No. AX16-003 (TL Mt. Rose Estates, LP), an appeal of the Parcel Map Review Committee's decision to approve Parcel Map Case No. PM16-006, which requested the division of a ±6.65 acre property into two parcels of ±3.90 and ±2.75 acres. The Board of County Commissioners may take action to confirm the Parcel Map Review Committee's approval; reverse the Parcel Map Review Committee's approval; or modify the Parcel Map approval. The applicant and property owner is TL Mt. Rose Estates, LP. The appellant is the Homeowners at Monte Vista, C/O Jeff Spencer, Esq. The subject parcel (APN: 150-460-05) is located at the northern terminus of Callahan Road directly north of Monte Vista at the Estates at Mount Rose within the Southwest Truckee Meadows Area Plan and South Truckee Meadows/Washoe Valley Citizen Advisory Board boundaries, Section 35, Township 18N, Range 19E, MDM. The Development Code article applicable to this amendment is Article 606, Parcel Maps. Community Services. (Commission District 2.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against Case No. AX16-003 (TL Mt. Rose Estates, LP).

Legal Counsel Paul Lipparelli stated that appeals from the Parcel Map Review Committee (PMRC) were not commonly heard at this Board. He indicated the process would start with a staff presentation; then the appellant would state their case; next there would be public comment; then the appellant would be entitled to a rebuttal and lastly, the Board would deliberate and a decision would be made regarding the case. He stated the right to appeal a PMRC decision could be brought to the Board and the appellant had the burden to prove the mistake, error or the transgression that occurred.

11:37 a.m. Chair Jung left the meeting.

Community Services Department Senior Planner Trevor Lloyd reviewed a PowerPoint presentation, which included slides entitled Appeal Case No. AX16-003, Vicinity Map, Proposed Site Plan, Project Details, Approved Water Treatment Facility, Justification for Appeal, Basis of PMRC Approval, Recommendation and Possible Motion. He stated the Board of Adjustment had approved the design of the Water Treatment Facility; therefore, it was not presented to the PMRC. He said the established use was not appealed when it was submitted for approval. He indicated the PMRC was tasked with deciding whether a parcel map split was appropriate based on the zoning, location and services available and it was not responsible for determining whether the Board of Adjustment made the appropriate decision. He stated the appellant felt the use

did not meet the established covenants, conditions and restrictions (CC&Rs) which controlled the use of the land. He indicated staff was recommending that the Board confirm the approval by the PMRC.

Appellant Jeff Spencer stated he was the attorney representing 31 of the homeowners in the Monte Vista subdivision. He said the homeowners were not acting through the homeowners association (HOA); they were acting individually. He stated the homeowners opposed the subdivision of the property and opposed the location of the Truckee Meadows Water Authority (TMWA) water treatment facility. He indicated the residents were not opposed to TMWA putting in a water treatment facility, but opposed the proposed location of this facility. He said there were serious issues that were not revealed to the lower Board when the approval was made. He stated the CC&Rs in this matter had not been followed and would not permit a water treatment facility to be located in the area. He provided a final map that was approved in May 2006, which was placed on file with the Clerk. He stated the subdivision, track 4649, was located to the north of Mount Rose. He said the important item on the map was the description, which stated a line was a subdivision boundary. He indicated the subdivision boundary line extended all the way around the entire parcel of land, which encompassed the built houses as well as the parcel to the north of Whites Creek. He said the CC&Rs in this case were subsequently recorded on September 6, 2011 and this map was included as one of the final nine pages of the CC&Rs. He indicated the map application for the division confirmed that this area was part of Monte Vista at the Estates at Mount Rose. He stated this was an approved subdivision map number TM11-001. He said while the information was disclosed that the parcel was in the subdivision, it was not revealed that the CC&Rs were not followed. He indicated the CC&Rs were in the handout and they restricted the area to be a high-end subdivision. He mentioned these were all \$700,000 to \$1,000,000 homes and it was not consistent usage to place a water treatment plant in this particular location. He noted there were other locations that TMWA might consider for the treatment plant. He thought the staff had not been provided with all the facts for the approval and said if the CC&Rs had been provided the parcel split would have been denied.

On the call for public comment, Andy Durling with Wood Rodgers stated he represented the applicant. He indicated this was quite simply a land division matter and did not address land use. He said the parcel map findings that were made by the PMRC met all the requirements of the underlying high-density rural lot standards, which included a 2-acre lot minimum lot width and other standards. He stated the PMRC made the correct decision to approve the parcel map based on the technical merits of the request. He reviewed a draft of the parcel map, which depicted parcels A1 and A2, which were divided from a 6.65-acre parcel. He stated the appellant's stance that the CC&Rs applied to this property was incorrect because the legal descriptions for the CC&Rs were specific to unit 3A not unit 3B. He said the property was identified as being annexable at the discretion of the property owner and a motion had been filed to remove this property from the CC&Rs. He noted the contention that the property should be under the CC&Rs for Monte Vista was a moot point. He provided documents, which were placed on file with the Clerk.

Michael Pagni introduced himself as an attorney with McDonald Carrano, and he represented the TMWA. He stated the sole issue before the Board was whether the PMRC committed a legal error in approving this map. He indicated the homeowners bore the burden of proving otherwise and he thought they had failed to carry that burden. As set forth in the staff report, the materials from the PMRC, and Mr. Durling's presentation, he thought it was clear that this parcel map satisfied all the requirements under the County Code. He stated the issue before the Board was not whether this was the right location for a water treatment plant, the issue was the split of the parcel. He indicated this parcel was properly zoned and fully entitled for this use. He stated the approvals including the Special Use Permit (SUP) that were issued in February were final and were no longer subject to challenge. He said he could not understate the importance of the water plant to public health and safety. Without a plant providing surface water supply to the Mount Rose aquifer there would be continued impacts to domestic wells, and the TMWA would likely be unable to issue commitments for new development in the area. He stated the TMWA completed all the requirements including: holding public Board meetings, sending letters to over 8,000 residents, workshops, meeting with the Monte Vista HOA, conducting extensive outreach, and holding a public hearing for the SUP process before the site was selected and before it was decided to move forward. He said the building was designed with certain materials and an architectural style to make it look like a barn and it would have three times the normal amount of landscaping in order to mitigate any impacts. He noted all the issues and concerns that were heard from the homeowners were addressed in the SUP process and were imposed as conditions for the permit. That was why the Board of Adjustment was able to make the findings that this was an appropriate use and an appropriate location for the facility. He stated the appellant had no legal bearing with this parcel and it and could be developed in accordance with the County Code.

Mr. Lipparelli stated he received an email from Mr. Pagni with an attachment. He indicated he needed Mr. Pagni to confirm that the document titled "Notice of Withdrawal of Annexable Property From the Declarations of Covenants, Conditions and Restrictions and Alternative Dispute Resolution for Monte Vista at Mount Rose", Document Number 4608662, which was recorded with the Washoe County Recorder's Office on July 11, 2016 was indeed the document he sent. Mr. Pagni replied yes, it was the same document. He stated a copy of the document was provided and was placed on file with the Clerk.

Acting Chair Lucey stated Mr. Spencer would have three minutes for his rebuttal.

Mr. Spencer thought the record would be contained in the Washoe County Assessor's records and the parcel in question was officially located in the Estates at Mount Rose 3A. He stated this was the parcel in question and the CC&Rs did apply for this parcel. He indicated the CC&Rs stated that the parcels could not be sold, but they could be dedicated to County uses and for utilities. He also stated that parcels could not be sold to a quasi-governmental agency by the developer. He thought there was a clear

legal error in this case and the error was that the binding documents for this parcel were not considered at the time the subdivision was reviewed. He stated the error in this case was caused by an application that was not complete. He thought to resolve the issue, the application should be resubmitted with all the required information.

Commissioner Hartung questioned Mr. Lloyd as to whether the use of the property was outlined by the Board of Adjustment.

Mr. Lloyd stated he was not the planner on the project but the Board of Adjustment reviewed the proposed use of a water treatment facility. He said it was up to the Board of Adjustment to determine whether the use was appropriate at that location, if it met all of the necessary findings, and if it would create a significant impact to the neighboring properties. He stated all of the issues were raised at the Board of Adjustment prior to their approval.

Commissioner Hartung wondered what the design of the building was based on. He stated water treatment plants were a necessity for existing and new residents all over the valley.

John Enole, Director of Natural Resources, TMWA, stated the SUP process involved a number of public meetings, an open house, a Community Advisory Board meeting and another meeting with Commissioner Lucey. He indicated the design was presented at each of the meetings. He stated the design concept was developed by working with the property owners, TL Lewis and representatives of the HOA Board. He explained the intent of the design and the physical appearance of the building was requested to match as close as was possible to the existing architectural theme of the Estates at Mount Rose. He stated there was significant time was spent creating a design that would be different. He said the amount of landscaping proposed was more than three times what was required for a facility of this type. He said they met with a number of neighbors who made favorable comments and thanked them for the appearance of the building.

Commissioner Hartung asked Legal Counsel whether HOAs could determine land use.

Mr. Lipparelli replied HOAs were unable to determine land use but were able to enforce private conveyance that homeowners agreed to. He said it was a private right that they enjoyed and in a sense they could enforce those rights by using the powers of the HOA and by bringing civil actions of their own. He explained that an HOA was not the arbiter of a land use decision or a subdivision decision.

Commissioner Hartung asked whether an HOA could approve or deny the sale of a property inside its boundary and Mr. Lipparelli replied if the parcel title was held by the HOA it would be within their control. In this case the HOA did not own the property.

Acting Chair Lucey asked Mr. Lloyd whether the current owner, TL Mount Rose Estates, LLP was the developer and Mr. Lloyd indicated that was correct.

Acting Chair Lucey asked whether this piece of property had been dedicated to TMWA for the usage of a water facility and Mr. Lloyd answered not at this time, as it would require subdividing.

On motion by Commissioner Hartung, seconded by Commissioner Herman, which motion duly carried with Chair Jung absent, it was ordered to confirm the Parcel Map Review Committee's decision to approve Parcel Map Case No. PM16-006, which requested the division of a ±6.65 acre property into two parcels of ±3.90 and ±2.75 acres. This approval is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the findings made by the Parcel Map Review committee.

16-0622 **AGENDA ITEM 19** Public Hearing for the second reading and possible adoption of an ordinance amending Chapter 50 of the Washoe County Code (Public Peace, Safety and Morals), amending Section 50.092 – Unlawful Discharge of Firearms; Exemption; amending Section 50.096 - Greater Truckee Meadows and environs Congested area and incorporating the Old Washoe City Congested area into the Greater Truckee Meadows and environs Congested area; 50.104 - Spanish Springs area Congested area, 50.108 - New Washoe City Congested area; Eliminating 50.110 - Old Washoe City Congested area; to update the congested areas and associated maps; and providing for other matters properly relating thereto. Community Services. (All Commission Districts.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance.

Jan Galassini, Chief Deputy County Clerk, read the title for Ordinance No. 1581, Bill No. 1767.

On the call for public comment, Kent Ervin submitted a map, which was placed on file with the Clerk. He thanked the Board for updating the Code for the congested area on Peavine Mountain to reflect the current conditions, which were much different than when they were last adjusted in 2012. He said it was suggested that enforcement was the answer, but he thought enforcement was only part of the answer. He stated with the boundaries clearly delineated, it would be easier to enforce the changes.

Garth Elliot said he believed signage on Peavine Mountain was important. He thought more people wanted to go out and shoot safely. He asked the Board to please consider the rights of the people in that area.

Cathy Brandhorst spoke about matters of concern to herself.

Commissioner Herman thought if this change did not work in the congested area that it would need to be adjusted in the future.

Commissioner Hartung stated signage would be a significant issue with the proposed changes. He was afraid that pushing the boundary lines further and further out would make it difficult to enforce the rules. He said they had a difficult time with enforcement in Spanish Springs because a person had to be more than 5,000 feet from a structure to shoot a rifle. He was concerned this change would create more problems.

Commissioner Berkbigler stated the purpose of the language and the map, was to draw specific boundary lines for designated recreation. She said it was not the County's intent to stop people from shooting on Peavine Mountain, but to provide a clear line to make it easier to enforce the boundaries. She agreed citizens had a right to shoot and most people who went there to shoot did not intend to shoot across a trail or at someone. She stated she was in support of the change but thought enforcement could be difficult.

Acting Chair Lucey stated enforcement was the key, but to provide enforcement there had to be defined boundaries. He understood this felt restrictive to citizens, but that was not the intent. He explained the intent was to provide a clear outline of where people could shoot safely and where people could hike and bike safely. He thought this was a step in the right direction and a benefit to the community. He stated in the future the boundaries might need to be changed and it was the job of the Board to adapt and make changes where needed.

Commissioner Herman said the County was going to install over \$4,000 in signage, which was part of the education process and could be more important than enforcement.

On motion by Commissioner Berkbigler, seconded by Commissioner Herman, which motion duly carried with Chair Jung absent, Acting Chair Lucey ordered that Ordinance No. 1581, Bill No. 1767, be adopted, approved and published in accordance with NRS 244.100.

12:28 p.m. Board recessed.

12:35 p.m. Board reconvened with Chair Jung absent.

16-0623 **AGENDA ITEM 18** Public hearing for the second reading and possible adoption of an ordinance amending Chapter 100 of the Washoe County Code by (1) adding thereto a provision decreasing fees for various building permits, including general building permits, other inspection and permit fees, and plan review fees, (2) adding a new category of fees for projects with a [value in excess of \$10,000,000.00], (3) increasing the fee for the renewal of all permits other than building permits to 100% of the original permit cost, and (4) providing other matters necessarily connected

therewith and pertaining thereto. Community Services. (All Commission Districts.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance. There being no response, the hearing was closed.

Jan Galassini, Chief Deputy County Clerk, read the title for Ordinance No. 1580, Bill No. 1766.

On motion by Commissioner Hartung, seconded by Commissioner Berkgigler, which motion duly carried with Chair Jung absent, Acting Chair Lucey ordered that Ordinance No.1580, Bill No. 1766, be adopted, approved and published in accordance with NRS 244.100.

16-0624 **AGENDA ITEM 20** Public hearing for the second reading and possible adoption of an ordinance amending Ordinance No. 1000 in order to change the boundaries of District No. 24 (Groundwater Remediation) and other matters relating thereto; AND Public hearing for the second reading and possible adoption an ordinance imposing a fee on the parcels of land in Washoe County, Nevada District No. 24 (Groundwater Remediation) to pay the costs of developing and carrying out a plan for remediation and other matters relating thereto. Community Services. (All Commission Districts.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinances. There being no response, the hearing was closed.

Jan Galassini, Chief Deputy County Clerk, read the title for Ordinance No. 1582, Bill No 1764; Ordinance No. 1583, Bill No. 1765.

On motion by Acting Chair Lucey, seconded by Commissioner Berkgigler, which motion duly carried with Chair Jung absent, Acting Chair Lucey ordered that Ordinance No. 1582, Bill No 1764; Ordinance No. 1583, Bill No. 1765, be adopted, approved and published in accordance with NRS 244.100.

16-0625 **AGENDA ITEM 16** Update, discussion and possible direction to staff regarding 2016 Nevada Legislative Interim Committees and Studies, legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues in preparation for the 79th (2017) Legislative Session as may be deemed by the Chair or the Board to be of critical significance to Washoe County. Manager. (All Commission Districts.)

Government Affairs Manager Liane Lee presented a PowerPoint presentation, which provided a Legislative update. She reviewed the slides entitled 2015-2016 Interim Session, Primary Election Results, Bill Draft Requests and Moving Forward. She noted some of the Bill Draft Request (BDR) topics included changes to elections, voter registration, management of feral cats, restoring certain civil rights to ex-felons, and making changes to guardianships. She highlighted the Bill Draft Requests slide and stated the most recent changes were requests from internal departments. She said a change would be made within the Animal Services BDR, to add language to define an Animal Control Officer. She noted there was not a definition currently for that position. She stated if there was a call for an animal to be removed, Animal Services would be required to contact first responders or law enforcement to request instruction to remove a dead animal. She stated when that happened, Animal Control Services had to explain how the law was written and why they had to be directed to remove the animal. She explained the change would legally allow Animal Services to remove an animal without first responder or law enforcement contact or direction. She said the second request that came forward was from the Comptroller's Office. She indicated they wanted the ability to publish financial information on the County's website rather than being required to publish in the local newspaper. She said the Nevada Revised Statute (NRS) currently required the Board to publish a quarterly statement of the total amount of receipts and expenditures in a newspaper in the County. She stated this change would allow the County to publish the information online to reach a broader audience. This change would create a significant cost savings for the County. She said in the last Legislative session, a similar bill was passed for the Assessor's Office, which allowed them to publish necessary information on an internal website maintained by the County Assessor.

Commissioner Hartung asked whether the request regarding removing the noticing from the newspaper would allow the County to place all notices online.

Ms. Lee stated that it would depend on how the bill was written whether all notices could be posted online. She stated there was something similar that was vetoed in a previous session, but she thought language could indicate which items had to be published and which items could be posted online.

Commissioner Hartung thought publishing in the newspaper was expensive and antiquated. He thought the County could reach a much wider audience, and people looked on the website prior to searching for notices in the newspaper. He thought email notifications would be far more efficient than searching the notices in the newspaper. He stated he was looking forward to a deeper conversation regarding the annexation issue. He indicated there was an issue in Cold Springs where a fire burned for more than 45 minutes inside the boundaries of the City of Reno without a response from firefighters. He said automatic aid was useful, but there was a question about who was called to respond to the fire.

Commissioner Berkbigler agreed with Commissioner Hartung. She said the Regional Planning Governing Board (RPGGB) imposed restrictions on the County, but

not on the Cities and she thought there should be equal regulations across the municipalities. She noted one of the areas that came up was medical marijuana establishments (MMEs). She said she heard there were approximately 30 potential bill draft requests related to marijuana and there were only two BDRs the County was allowed to submit. She said there were already animal services bills and she thought it could be possible to add some annexation and MME language into the Animal Services bill.

Commissioner Herman said if the bills passed, she thought there would be MMEs and recreational marijuana facilities. She wanted to see the County have more control over the locations and densities of the facilities. She thought that needed to be reviewed. She asked about changes that were requested for the RPGB.

Ms. Lee stated she would have to defer to the Commissioners, but she thought the structure of how projects were approved with the three entities would change. She thought if one entity approved a project; the other entities could not override that.

Commissioner Berkbigler said there was an imbalance in the RPGB because there were four members from City of Reno, three members from City of Sparks, and three members from the County. She stated it was different from when it was originally set up. Another issue was the restriction that required County representatives to be from District 4 and District 5, with the third seat being flexible. She thought it was an inappropriate restriction imposed on the County because the representatives from those Districts might not want to sit on that Board. She thought there were other issues such as annexation and the sphere of influence that she hoped would be reviewed. She said she had a discussion with members of the City of Reno and they were agreeable to some of the changes to the RPGB.

Commissioner Herman commented that the Animal Services issues had been heavily debated.

Commissioner Berkbigler stated she wanted to see a detailed breakdown about the BDR for Animal Services and to know who would make the decision to remove an animal. She said currently it was set up with law enforcement to remove the animal and it might be easier to do it the other way. She wanted to know what kind of liability the County would have if there was not an officer to remove the animals. She thought there should be more information before a decision was made.

Commissioner Hartung stated the law allowed the County to only have two BDRs every two years. He thought because Washoe County was the second largest county in the State that two BDRs was quite restrictive.

Acting Chair Lucey agreed with Commissioner Hartung. He said there was dramatic growth within the area and there was a constant need to have the ability to address issues as the population grew. He stated only two BDRs every two years was insufficient when there were changes that needed to be made year-round and every year.

He asked Ms. Lee to investigate the possibility of allowing for more BDRs. He said the Commissioners received letters from the Governor's Office of Economic Development (GOED) that recapped what tax abatements would be granted. He said the taxes that were usually collected by the County were being abated without any discussion with the County. He noted the County was told this was what they were doing and the County did not have a choice in the matter. He said the sales tax infrastructure through the National Association of Counties (NACO) was a big issue for smaller counties. He thought the County should work together with the State to get the best results.

Commissioner Hartung agreed with Acting Chair Lucey regarding the GOED. He said someone mentioned earlier that the County treated new businesses better than the businesses that were well established in the County. He thought all businesses should receive comparable tax abatements, but the decisions were done at a higher level. He said the County had to live with those decisions and supply the services that were associated with the businesses without having the tax revenue to support them.

Commissioner Herman thought the original intent of the RPGC was to include representatives from District 4 and District 5 because those Districts had a larger land mass. She thought it should stay the way it was.

Commissioner Berkbigler agreed that was the original intent. She thought the County and municipalities should be held to the same standards, but the Cities were not restricted. She noted the growth of the County was just as important as the City of Reno. She commented the County representatives were doing an excellent job on that Board.

Ms. Lee stated moving forward she would put the new ideas on the BDR list. She said she would continue to monitor the interim committees, work with the County Manager and departments and would continue to provide updates. She noted there would be three more regular Board meetings and two more ceremonial Board meetings before the BDRs were due on September 1st.

On the call for public comment, Garth Elliott spoke about transparency. He said the requirement to publish in the newspaper was a financial burden and he did not like it either. He noted there was a large percentage of older people in the County that might not be updated on technology. He stated Sun Valley had two MMEs and he did not know whether the community received any benefit from them. He noted the majority of the residents in Sun Valley lived in mobile homes, which had a very low tax rate.

There was no action taken on this item.

16-0626 **AGENDA ITEM 21** Possible Closed Session for the purpose of discussing labor negotiations with Washoe County, Truckee Meadows Fire Protection District and/or Sierra Fire Protection District per NRS 288.220.

There was no Closed Session.

16-0627 **AGENDA ITEM 22** Public Comment.

Garth Elliott spoke about the difference in the requirements for owning animals 15 years ago as compared to the present. He stated that 15 years ago a resident could own a lion or tiger as long as there was a 12-foot fence around the property. He spoke about guns and shooting issues on Peavine Mountain. He thought the issues should be approached in a different manner. He urged the Board to reconsider the proposed changes to the congested area on Peavine Mountain and to reverse their decision.

Kent Ervin thanked the Board for approving the congested area ordinance. He stated this was only part of the equation and the next step was to publicize the new boundaries through education with maps, signage and media attention, along with enforcement. He hoped his group could help with the trailhead signage and by providing education through social media.

16-0628 **AGENDA ITEM 23** Commissioners'/Manager's announcements, reports/updates requests for information or topics for future agendas. (No discussion among Commissioners will take place on this item.)

There were no comments from the Board.

COMMUNICATIONS AND REPORTS

The following communications and reports were received, duly noted, and ordered placed on file with the Clerk:

COMMUNICATIONS:

16-0629 Letter from Carl R. Webb, Jr., AICP addressed to Kimberly H. Robinson, MUP, Executive Director of the Truckee Meadows Regional Planning Agency dated June 10, 2016 regarding the order of alternates for the Regional Planning Commission.

16-0630 Letter from Ardena Perry submitted during the Board of County Commissioner's meeting of September 9, 2014, Agenda Item 3. (Original Minute Item No. 14-0773)

MONTHLY FINANCIAL STATEMENTS:

16-0631 Monthly Statement of the Washoe County Treasurer for month ending May 31, 2016.

TENTATIVE BUDGETS / FINAL BUDGETS

- 16-0632** Washoe County School District’s final budget for fiscal year ending June 30, 2017.
- 16-0633** North Lake Tahoe Fire Protection District’s final budget for fiscal year ending June 30, 2017.
- 16-0634** Palomino Valley General Improvement District’s final fiscal year 2016-2017 budget.

* * * * *

1:09 p.m. There being no further business to discuss, on motion by Commissioner Berkgigler, seconded by Commissioner Lucey, which motion duly carried with Chair Jung absent, the meeting was adjourned.

KITTY K. JUNG, Chair
Washoe County Commission

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Doni Gassaway, Deputy County Clerk*

INTERLOCAL PUBLIC WORK AGREEMENT

This Agreement, made and entered into on _____, by and between the State of Nevada, acting by and through its Department of Transportation, hereinafter called the DEPARTMENT, and the Washoe County Community Services Department, 1001 E. 9th Street, Reno, NV 89512, hereinafter called the COUNTY.

WITNESSETH:

WHEREAS, an Interlocal Agreement is defined as an agreement by public agencies to "obtain a service" from another public agency, hereinafter called parties; and

WHEREAS, pursuant to the provisions contained in Chapter 408 of the Nevada Revised Statutes, the Director of the DEPARTMENT may enter into agreements necessary to carry out the provisions of the Chapter; and

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the agreement is authorized by law to perform and refers to such as an Interlocal Contract, hereinafter called an Agreement; and

WHEREAS, the purpose of this Agreement is for the DEPARTMENT to construct improvements to the sidewalk; lighting; bustop; and pedestrian warning system, including its Rectangular Rapid Flashing Beacons ("RRFB"), as well as improvements made under the Americans with Disabilities Act along SR 443, Sun Valley Blvd., at the intersections of Skaggs Circle, Gepford Pkwy, and 6th Ave ("PROJECT").

WHEREAS, the services of the DEPARTMENT will be of benefit to the COUNTY and to the people of the State of Nevada; and

WHEREAS, the DEPARTMENT is willing and able to perform the services described herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

ARTICLE I - COUNTY AGREES

1. To grant to the DEPARTMENT and its authorized agents and contractors permission to work within the COUNTY'S right-of-way for the purpose of constructing the PROJECT and maintain the RRFB and lighting systems.

2. The COUNTY shall retain sidewalk and ADA ramp maintenance responsibilities that are within the COUNTY right-of-way as part of the PROJECT, upon completion and the COUNTY's final written acceptance of the PROJECT.

16-0600

ARTICLE II - DEPARTMENT AGREES

1. To Design and administer the construction contract using DEPARTMENT Standard Plans and Standard Specifications for Road and Bridge Construction that match or most closely match the COUNTY's Standard Details for Public Works Construction for the portions of the PROJECT that are in the COUNTY's right of way.
2. To provide the COUNTY with preliminary plans and specifications for review and comment, and to invite the COUNTY to the specification review meeting to address said comments.
3. To allow the COUNTY to observe, review, and inspect all work associated with the PROJECT during construction with the understanding that any and all items of concern are reported to the DEPARTMENT'S Resident Engineer for correction.
4. To allow the COUNTY to review and comment on the DEPARTMENT'S PROJECT change orders which involve features or items related to the PROJECT'S for which the COUNTY assumes a maintenance responsibility.
5. To operate, maintain, and provide energy for the RRFB, and street lights without any cost to the COUNTY. Maintenance activities shall comply and remain current with industry accepted practices.
6. To retain sidewalk and ADA ramp maintenance responsibilities that are within DEPARTMENT's right-of-way as part of the PROJECT, upon completion and the DEPARTMENT's final written acceptance of the PROJECT.
7. To obtain all required Washoe County permits including, but not limited to, applicable street cut permits, which permit costs will be waived by the County.

ARTICLE III - IT IS MUTUALLY AGREED

1. The term of this Agreement shall be from the date first written above through and including December 31, 2016, or until the PROJECT is completed and accepted by the DEPARTMENT, save and except the responsibility for maintenance as specified herein, whichever occurs first.
2. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.
3. This Agreement may be terminated by either party prior to the date set forth above, provided that a termination shall not be effective until thirty (30) calendar days after a party has served written notice upon the other party. This Agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Agreement shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.
4. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

FOR DEPARTMENT:

Rudy Malfabon, P.E., Director
Attn.: Lori Campbell
Nevada Department of Transportation
Division: Planning Traffic Safety Engineering
1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7462
Fax: (775) 888-7403
E-mail:lcampbell@dot.state.nv.us

FOR WASHOE COUNTY:

David Solaro, Arch., P.E.
Attn: Clara Lawson, P.E., PTOE
Washoe County Public Works
1001 E. 9th Street,
Reno, NV 89512
Phone: (775) 328-3603
Fax: (775) 328-3699
E-mail: clawson@washoecounty.us

5. Each party agrees to keep and maintain under generally accepted accounting principles full, true, and complete records and documents (written, electronic, computer related, or otherwise) pertaining to this Agreement and present, at any reasonable time, such information for inspection, examination, review, audit, and copying at any office where such records and documentation are maintained. Such records and documentation shall be retained for three (3) years after final payment is made.

6. Failure of either party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to the recovery of actual damages, and the prevailing party's reasonable attorney's fees and costs.

7. The parties do not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any DEPARTMENT breach shall never exceed the amount of funds which have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

8. Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitations, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

9. To the fullest extent of NRS Chapter 41 liability limitations, each party shall indemnify, hold harmless, and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees, and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity,

which would otherwise exist as to any party or person, described herein. This indemnification obligation is conditioned upon service of written notice to the other party within thirty (30) calendar days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable for reimbursement of any attorney's fees and costs incurred by the indemnified party due to said party exercising its right to participate with legal counsel.

10. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

11. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

12. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist. The unenforceability of such provision or provisions shall not be held to render any other provision or provisions of this Agreement unenforceable.

13. Neither party shall assign, transfer, or delegate any rights, obligations, or duties under this Agreement without the prior written consent of the other party.

14. Except as otherwise provided by this Agreement, all or any property presently owned by either party shall remain in such ownership upon termination of this Agreement, and there shall be no transfer of property between the parties during the course of this Agreement.

15. Pursuant to NRS Chapter 239, information or documents arising from the PROJECT or this Agreement may be open to public inspection and copying. The parties will have the duty to disclose that information or documents, unless a particular record is confidential by law or a common law balancing of interests.

16. Each party shall keep confidential all information, in whatever form, produced, prepared, observed, or received by that party to the extent that such information is confidential by law or otherwise required to be kept confidential by this Agreement.

17. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to perform the services set forth herein.

18. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of the Nevada state district courts for enforcement of this Agreement.

19. The DEPARTMENT will award the total contract in accordance with its rules and procedures under the Standard Specifications for Road and Bridge Construction to the lowest

responsive and responsible bidder. The DEPARTMENT has the right to reject any and all bid proposals determined not to be in the best interest of the State.

20. Construction engineering costs will be the actual construction engineering costs incurred by the DEPARTMENT during the construction of the PROJECT.

21. The DEPARTMENT agrees to pay actual PROJECT costs whether they be greater than or less than the estimates shown herein.

22. The DEPARTMENT will ensure that any reports, materials, studies, photographs, negatives, drawings, or other documents prepared in the performance of obligations under this Agreement shall be the exclusive property of the COUNTY and the DEPARTMENT. The DEPARTMENT will ensure that any consultant will not use, willingly allow, or cause to have such documents used for any purpose other than performance of obligations under this Agreement without the written consent of the COUNTY and the DEPARTMENT. The DEPARTMENT shall not utilize (and shall ensure any consultant will not utilize) any materials, information, or data obtained as a result of performance of this Agreement in any commercial or academic publication or presentation without the express written permission of the DEPARTMENT. The COUNTY (and any consultant) shall not reference an opinion of an employee or agent of the DEPARTMENT obtained as a result of performance of this Agreement in any publication or presentation without the written permission of the employee or agent to whom the opinion is attributed, in addition to the permission of the DEPARTMENT.

23. Any recipient or subrecipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A available at <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>.

24. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof a third party beneficiary status hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

25. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The parties further agree to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

26. This Agreement constitutes the entire agreement of the parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Attorney General.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

WASHOE COUNTY, acting by and through its
DEPARTMENT OF COMMUNITY SERVICES

State of Nevada, acting by and through its
DEPARTMENT OF TRANSPORTATION



Kitty K. Jung, Chair
Washoe County Commission

Director

Approved as to Legality & Form:




Jan Dalasini, Chief Deputy for
Washoe County Clerk

Deputy Attorney General